



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 9, 2019

Mr. Matthew Enstminger
Assistant County Attorney
Travis County
P.O. Box 1748
Austin, Texas 78767

OR2019-22055

Dear Mr. Enstminger:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 779766.

The Travis County District Attorney's Office (the "district attorney's office") received a request for all discoverable material pertaining to a specified cause number.¹ You indicate you will release some information. You claim the submitted information is excepted from disclosure under section 552.1085 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.²

¹You state the district attorney's office sent the requestor a cost estimate of charges pursuant to section 552.2615 of the Government Code, and the requestor accepted the cost estimate. *See* Gov't Code § 552.2615. The estimate of charges required the requestor to provide a deposit for payment of anticipated costs under section 552.263 of the Government Code. *See id.* § 552.263(a). You also inform us the district attorney's office received the required deposit on May 21, 2019. *See id.* § 552.263(e) (if governmental body requires deposit or bond for anticipated costs pursuant to section 552.263, request for information is considered to have been received on date governmental body receives bond or deposit).

²We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Section 552.1085 provides, in pertinent part:

(c) A sensitive crime scene image in the custody of a governmental body is confidential and excepted from the requirements of Section 552.021 and a governmental body may not permit a person to view or copy the image except as provided by this section. This section applies to any sensitive crime scene image regardless of the date that the image was taken or recorded.

Gov't Code § 552.1085(c). For purposes of section 552.1085, "sensitive crime scene image" means "a photograph or video recording taken at a crime scene, contained in or part of a closed criminal case, that depicts a deceased person in a state of dismemberment, decapitation, or similar mutilation or that depicts the deceased person's genitalia." *See id.* § 552.1085(a)(6). Upon review, we find none of the submitted photographs consist of sensitive crime scene images for the purposes of section 552.1085. Accordingly, the district attorney's office may not withhold the submitted photographs under section 552.1085(c) of the Government Code.

We note some of the submitted information is subject to section 552.130 of the Government Code.³ Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. Accordingly, with the exception of the information belonging to the requestor's client, the district attorney's office must withhold all visible license plates in the submitted photographs under section 552.130 of the Government Code. The district attorney's office must release the remaining information.⁴

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

³The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

⁴In this instance, the requestor has a special right of access to some of the information being released in this instance. *See* Gov't Code § 552.023(a) (person or a person's authorized representative has a special right of access, beyond right of general public, to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect that person's privacy interests); Open Records Decision No. 418 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Because such information is confidential with respect to the general public, if the district attorney's office receives another request for this information from a different requestor, the district attorney's office must again seek a ruling from this office.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kimbell Kesling
Attorney
Open Records Division

KK/eb

Ref: ID# 779766

Enc. Submitted documents

c: Requestor
(w/o enclosures)